

REMARKS

1. Present Status of Patent Application

This is a full and timely response to the outstanding non-final Office Action mailed March 1, 2005. Reconsideration and allowance of the application and presently pending claims 1-21, as amended, are respectfully requested. It is believed that the foregoing amendments and additions add no new matter to the present application.

2. Response to Rejection of Claims 1-20 Under 35 U.S.C. §101

In the Office Action, claims 1-20 are rejected under 35 U.S.C. §101 because they disclose a claimed invention that is an abstract idea as defined in the *case In re Warmerdam*, 33 F.3d 1354, 31 USPQ2d 1754 (Fed. Cir 1004).

Applicants respectfully submit that the pending claims produce a useful, concrete, and tangible result, and therefore, the rejection of the claims should be withdrawn. In particular, independent claim 1, as amended, includes at least the steps of “automatically modifying the functionality of the software application when the threshold value is exceeded by the skill level value of the identified operator; automatically modifying an appearance of the functional interface when the threshold value is exceeded by the skill level value of the identified operator; and displaying the modified appearance as the identified operator operates the software application,” which produce useful and tangible results. As such, the rejection under 35 U.S.C. §101 has been overcome and should be withdrawn.

Further, independent claim 16, as amended, includes at least the following elements which produce useful and tangible results: “means for automatically modifying functionality of the software application and automatically modifying an interface associated with the software application responsive to when a software skill level parameter for the operator exceeds the threshold value; and means for displaying the modified appearance as the identified operator operates the software application.” As such, the rejection under 35 U.S.C. §101 has been overcome and should be withdrawn.

In addition, independent claim 19 is directed to an interactive software-based system with “usage logic programmed to generate an output signal indicative of a condition where the associated function selection sum exceeds the associated selection

threshold,” and “an interface product manipulator programmed to modify a software application interface that contains associated functional controls and functionality of the software application in response to the output signal.” As such, Applicants respectfully submit that claim 19 satisfies the requirements of 35 U.S.C. §101 and respectfully requests withdrawal of the rejection.

Independent claim 20 is also directed to a “computer-readable medium” with logic for manipulating the functionality and interface of a software application. As described in the Manual of Patent Examining Procedure (MPEP), when functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” MPEP 2106 §IV. B 1. Thus, Applicants submit that claim 20 also complies with the requirements of 35 U.S.C. §101 and respectfully requests withdrawal of the rejection.

For at least these reasons, the rejections of claims 1-20 should be withdrawn.

3. Response to Rejection of Claims 1-20 Under 35 U.S.C. §102(e)

In the Office Action, claims 1-20 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by *Cheng* (U.S. Patent No. 6,151,643). For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of the claim. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

a. Claim 1

1. A method for modifying a software application, comprising:

identifying the operator of the software application;
acquiring an operator profile responsive to the identified operator, wherein ***the operator profile includes a skill level value for the identified operator with regard to the software application;***
setting a threshold value;
monitoring the identified operator's use of the software to aid in determining the skill level of the identified operator;
automatically modifying the functionality of the software application when the threshold value is exceeded by the skill level value of the identified operator;

automatically modifying an appearance of the functional interface when the threshold value is exceeded by the skill level value of the identified operator; and
displaying the modified appearance as the identified operator operates the software application.

(Emphasis added).

Applicants respectfully submit that independent claim 1 is allowable for at least the reason that *Cheng* does not disclose, teach, or suggest anywhere in the specification or in the figures at least the features of an “operator profile includ[ing] a skill level value for the identified operator with regard to the software application,” “monitoring the identified operator's use of the software to aid in determining the skill level of the identified operator,” “automatically modifying the functionality of the software application when the threshold value is exceeded by the skill level value of the identified operator,” and “automatically modifying an appearance of the functional interface when the threshold value is exceeded by the skill level value of the identified operator,” as recited in claim 1.

Rather, *Cheng* discloses “a system for updating diverse software products.” Col. 6, lines 11-13. “As new software updates, or software products become available, the service providers determines which one match a particular user’s interests, and notifies the user of such updates or products by email. . . . The user can then approve the installation of the product or update, and use the client application to download and install the software update or product.” Col. 5, lines 24-32. As such, *Cheng* fails to disclose at least the feature of modifying software based upon a skill level of an operator, since *Cheng* discloses that software is updated based on an availability of a software update. See col. 11, lines 55-63. For at least this reason alone, *Cheng* does not anticipate claim 1.

Therefore, the rejection of claim 1 should be withdrawn.

b. Claims 2-15

Because independent claim 2 is allowable over the cited art of record, its dependent claims 2-15 are allowable as a matter of law, for at least the reason that the dependent claims 2-15 contain all the features and elements of their respective independent claim 1. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Additionally and

notwithstanding the foregoing allowability of claims 2-15, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record. Hence, there are other reasons why these dependent claims are allowable.

c. Claim 16

16. A computer based software modification system,
comprising:
 means for receiving information reflective of the identity of an
operator of a software application;
 *means for receiving information responsive to the operator's
skill level in using the software application;*
 means for determining a threshold value;
 *means for automatically modifying an interface associated
with the software application and automatically modifying
functionality of the software application responsive to when a
software skill level parameter for the operator exceeds the threshold
value; and*
 means for displaying the modified appearance as the identified
operator operates the software application.

(Emphasis added).

Applicant respectfully submits that independent claim 16 is allowable for at least the reason that *Cheng* does not disclose, teach, or suggest anywhere in the specification or in the figures at least the features of “means for receiving information responsive to the operator's skill level in using the software application,” and “means for automatically modifying an interface associated with the software application and automatically modifying functionality of the software application responsive to when a software skill level parameter for the operator exceeds the threshold value,” as recited in claim 16.

As previously discussed, *Cheng* discloses “a system for updating diverse software products.” Col. 6, lines 11-13. As such, *Cheng* fails to disclose at least the feature of modifying software based upon a skill level of an operator, since *Cheng* discloses that software is updated based on an availability of a software update. See col. 11, lines 55-63. For at least this reason alone, *Cheng* does not anticipate claim 16. Therefore, the rejection of claim 16 should be withdrawn.

d. Claims 17-18

Because independent claim 16 is allowable over the cited art of record, its dependent claims 17-18 are allowable as a matter of law, for at least the reason that the dependent claims 17-18 contain all the features and elements of their respective independent claim 1. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Additionally and notwithstanding the foregoing allowability of claims 17-18, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record. Hence, there are other reasons why these dependent claims are allowable.

e. Claim 19

19. An interactive software based system, comprising:
a user operable input device;

a user interface coupled to the input device, the user interface operable to receive at least one identifier associated with an operator of a software application, the user interface programmed to receive an operator profile associated with the operator; a usage monitor coupled to an output of the user interface, the usage monitor programmed to record instances of operator function selections;

a usage logic coupled to the output of the usage monitor, the usage logic programmed to compare at least one selection threshold with an associated function selection sum, the usage logic programmed to generate an output signal indicative of a condition where the associated function selection sum exceeds the associated selection threshold; and

an interface product manipulator programmed to modify a software application interface that contains associated functional controls and functionality of the software application in response to the output signal.

(Emphasis added).

Applicant respectfully submits that independent claim 19 is allowable for at least the reason that *Cheng* does not disclose, teach, or suggest anywhere in the specification or in the figures at least the feature of “an interface product manipulator programmed to modify a software application interface that contains associated functional controls and functionality of the software application in response to the output signal,” as recited in claim 19.

As previously discussed, *Cheng* discloses a system for updating software components. As such, *Cheng* fails to disclose at least the feature of modifying

software based upon instances of interface selections by an operator, since *Cheng* discloses that software is updated based on an availability of a software update. See col. 11, lines 55-63. For at least this reason alone, *Cheng* does not anticipate claim 19. Therefore, the rejection of claim 19 should be withdrawn.

f. Claim 20

20. A computer-readable medium, comprising:
logic for identifying an operator of an associated software application;
logic for obtaining information reflective of the operator's skill level in using the software application over a current and previous operating sessions;
logic for updating the information reflective of the operator's skill level;
logic for comparing the operator's skill level with at least one threshold;
logic for automatically manipulating functionality of the software application responsive to a condition when the operator's skill level in use of the software application exceeds the at least one threshold; and
logic for automatically manipulating a software application interface responsive to a condition when the operator's skill level in use of a functional control exceeds the at least one threshold.

(Emphasis added).

Applicant respectfully submits that independent claim 20 is allowable for at least the reason that *Cheng* does not disclose, teach, or suggest anywhere in the specification or in the figures at least the features of “logic for obtaining information reflective of the operator's skill level in using the software application over a current and previous operating sessions,” “logic for updating the information reflective of the operator's skill level,” “logic for comparing the operator's skill level with at least one threshold,” “logic for automatically manipulating functionality of the software application responsive to a condition when the operator's skill level in use of the software application exceeds the at least one threshold,” and “logic for automatically manipulating a software application interface responsive to a condition when the operator's skill level in use of a functional control exceeds the at least one threshold,” as recited in claim 20.

Rather, *Cheng* discloses a system for updating software components. As such, *Cheng* fails to disclose at least the feature of modifying software based upon a skill level of an operator, since *Cheng* discloses that software is updated based on an availability of a software update. See col. 11, lines 55-63. For at least this reason alone, *Cheng* does not anticipate claim 20. Therefore, the rejection of claim 20 should be withdrawn.


4. Newly Added Claim 21

New claim 21 is based on subject matter that is explicit and/or inherent within the description of the specification and/or the drawings. Applicants submit that no new matter has been added in the new claim, and that new claim is allowable over the cited art.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-21 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,


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